

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

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Paper 

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Board of Patent Appeals and Interferences  
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Filed: September 16, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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GENCELL S.A.

Junior Party  
U.S. Patent 6,127,175

v.

IMRE KOVESDI, DOUGLAS E. BROUGH, DUNCAN L. MCVEY,  
JOSEPH T. BRUDER and ALENA LIZONOVA

Junior Party,  
Application 08/258,416

v.

GENCELL S.A.

Senior Party  
Application 08/397,225

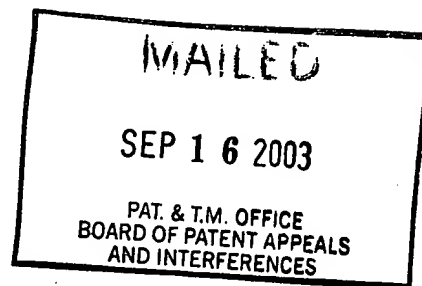
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Patent Interference No. 104,829 (CAS)

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**ORDER REDECLARING INTERFERENCE**  
(37 CFR § 1.611)

In view of (a) the decision on preliminary and miscellaneous motions (Paper 74),



(b) the entry of amendments to Gencell/Perricaudet '225 claims 1, 2 and 11 (Paper 75) and (c) the decision on reconsideration denying Gencell's request to file substitute preliminary motions 1A and 1B (Paper 78), it is

ORDERED that the interference is redeclared as follows:

1. The claim correspondence to Counts 3 and 4 have changes.<sup>1</sup> Counts 1 through 6 per se have not changed. [Paper 1, pp. 6-8.]

Count 1

The adenoviral vector of claim 57 of the '416 Kosvedi application  
or  
The adenoviral vector of claim 72 of the '416 Kosvedi application  
or  
The replication defective recombinant adenovirus of claim 35 of the  
'225 Perricaudet application.

Count 2

The cell line of claim 41 of the '416 Kovesdi application  
or  
The cell line of claim 26 of the '225 Perricaudet application.

Count 3

The adenoviral vector of claim 53 of the '416 Kovesdi application  
or  
The adenoviral vector of claim 70 of the '416 Kovesdi application  
or  
The defective recombinant adenovirus of claim 33 of Vigne patent  
'175  
or  
The replication defective recombinant adenovirus of claim 34 of the  
'225 Perricaudet application.

Count 4

The cell line of claim 38 of the Kovesdi '416 patent  
or  
The recombinant cell line of claim 1 of Vigne patent '175

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<sup>1</sup> Gencell/Vigne patent '175 claims 17-19 now correspond to Count 4. Gencell/Perricaudet '225 amended claims 1-3, 9, 12-18, 28, 30, 35, and 40-41 claims do not correspond to Count 3.

or  
The cell line of claim 22 of the Perricaudet '225 application.

Count 5

The adenoviral vector of claim 59 of the Kovesdi '416 application  
or  
The adenoviral vector of claim 74 of the Kovesdi '416 application  
or  
The replication-defective adenovirus of claim 42 of the Perricaudet  
'225 application.

Count 6

The cell line of claim 43 of the Kovesdi '416 application  
or  
The cell line of claim 24 of the Perricaudet '225 application.

2. The claims of the parties are:

Kovesdi	19-26, 36-87, 89-95
Vigne	1-33
Perricaudet	1-3, 6, 9-30, 33-42

3. The claims of the parties which correspond to Count 1 are:

Kovesdi	20-21, 24-26, 52, 56-58, 68-69, 72-73, 78-79, 84-87
Vigne	None
Perricaudet	1-3, 9, 12-18, 28, 30, 35, 40-41

4. The claims of the parties which correspond to Count 2 are:

Kovesdi	19, 36, 41-42, 89-90, 95
Vigne	None
Perricaudet	19-20, 23, 25-27

5. The claims of the parties which correspond to Count 3 are:

Kovesdi	20-21, 24-26, 52-56, 68-71, 78-79, 82, 84-87
Vigne	33
Perricaudet	None

6. The claims of the parties which correspond to Count 4 are:

Kovesdi	19, 36-40, 89-90, 92-95
Vigne	1-6, 11-21, 23-25
Perricaudet	19-23, 25, 27, 33

7. The claims of the parties which correspond to Count 5 are:

Kovesdi	20-21, 24-26, 52-87
Vigne	None
Perricaudet	42

8. The claims of the parties which correspond to Count 6 are:

Kovesdi	19, 36-41, 43-51, 89-90, 92-95
Vigne	None
Perricaudet	24

9. The claims of the parties which do not correspond to any of Counts 1 through 6, and therefore are not involved in the interference, are:

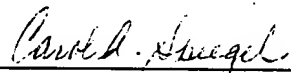
Kovesdi	22-23, 91
Vigne	7-10, 22, 26-32
Perricaudet	6, 10-11, 29, 36-39

FURTHER ORDERED that the procedures set forth in the attached STANDING ORDER are in effect for the remainder of the interference.

FURTHER ORDERED that a conference call is scheduled for **October 9, 2003 at 10:00 a.m.** to set times for taking action during the priority phase of the interference. The call will be initiated by the PTO.

FURTHER ORDERED that the "Last Time" period in the priority phase is set at **July 6, 2004.**

Courtesy copies of the current STANDING ORDER and the order used to set times for taking action in the priority phase of the interference will be sent, but not faxed, with this order.

  
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Carol A. Spiegel  
Administrative Patent Judge

September 16, 2003

Enc: Copy of STANDING ORDER

Copy of order used for setting times for taking action in the testimony and briefing phases of the interference

104,829 (via fax and overnight delivery):

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